

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
TIME 3:30 p.m.
SEP 24 2020

RICHARD W. NAGEL, Clerk of Court
COLUMBUS, OHIO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TODD A. HANKS

Defendant.

CASE NO. D:DCR-11d

JUDGE Graham

INFORMATION

18 U. S. C. § 1349

18 U. S. C. § 1001

THE UNITED STATES ATTORNEY CHARGES:

INTRODUCTION

At all times relevant to this Information:

1. The defendant, **TODD A. HANKS (HANKS)**, resided in Delaware, Ohio, within the Southern District of Ohio.
2. On or about July 5, 2016, **HANKS** registered Talan Industries, LCC with the State of Ohio as a For-Profit Limited Liability Company and listed B.H., then a 19 year-old female, as the Agent/Registrant and Incorporator. The registered office address was listed as **HANKS'** residence.
3. On or about September 30, 2012, B.S. registered MWest Green, INC. with the State of Ohio as a For-Profit Corporation and listed himself as the Agent/Registrant and Incorporator. The registered office address was listed as B.S.' residence.
4. The U.S. Department of Defense (DoD) was the federal government agency charged with providing the military forces what it needed to deter war and to protect the security of the United States.

5. The U.S. General Service Administration (GSA) was a federal agency that oversaw the business of the federal government and was one of the largest contracting agencies in the government, providing centralized procurement for the federal government.

6. The U.S. Small Business Administration (SBA) was an independent agency of the federal government, responsible for assisting and protecting the interests of small business concerns, preserving free competitive enterprise and maintaining and strengthening the overall economy of the United States by helping Americans start, build, and grow businesses.

7. The U.S. Army Corp of Engineers (USACE) was a federal agency under the DoD that primarily oversees dams, canals and flood protection in the United States, as well as a wide range of public works throughout the world. The USACE's mission was to "Deliver vital public and military engineering services; partnering in peace and war to strengthen our Nation's security, energize the economy and reduce risks for disasters."

SAM database

8. The Federal Acquisition Regulation (FAR) required all prospective contractors to be registered in the System for Award Management (SAM) prior to the award of a contract. The SAM was operated and managed by GSA and its servers are housed in Sterling, Virginia. The registration process operates in the following manner:

- a. a contractor is required to have and be current in their SAM accounts to bid on a contract; the contractor first creates an account with a username and password in SAM and then enters information into the system concerning the business;
- b. the contractor can login, change, and update the SAM account at any time using the username and password;
- c. the contractor is then required to review and certify the SAM file is correct;
- d. contractors are then required to make yearly certifications in SAM;
- e. the Government agency Contracting Officers rely on the certifications in the SAM database to determine a firm's eligibility to obtain small business set-aside purchase orders and contracts; and

- f. the SAM database maintains any and all saves, updates and/or changes that are made to a contractor's account in these databases as well as the Internet Protocol address of the location from where the saves, updates and/or changes were made.

9. The GSA maintained SAM and relied on information in the database provided by potential contractors to determine eligibility for federal programs including small business designation.

CONTRACT AWARD PROCESS – USACE

10. USACE used Federal Business Opportunity (FedBizOpps) a web-based application that allows users to search and view all federal procurement opportunities over \$25,000 to include USACE. To access FedBizOpps, contractors must register an account with SAM database, which validates and disseminates their business information. FedBizOpps provides the contractors the ability to filter, search for, notified of, and view RFPs, RFQs, and other procurement information related to USACE. Additionally, FedBizOpps allows contractors to submit proposals to RFPs and quotes to RFQs associated with USACE contracts. Talan Industries, LLC utilized FedBizOpps to submit its secure quotations and proposals for USACE awards. FedBizOpps servers are also housed in Sterling, Virginia.

Invoice and Payment Process

11. The USACE Finance Center is located in Millington, Tennessee and provides responsive, professional operational finance & accounting day-to-day support for the USACE worldwide. The USACE Finance Center has the principal responsibility for all USACE contract payments to its contractors.

12. Contractors typically submit their invoices through the DoD's Wide Area Work Flow (WAWF) database. Once the invoice is submitted to WAWF, it is input into Corps of Engineer Financial Management System (CEFMS) along with the Material Inspection and

Receiving Report (MIRR), DD Form 250. Once there is a match between the invoice and the MIRR, a Certificated for Payment (CFP) is generated resulting in a distribution of funds either electronically or through the issuing of a Treasury check.

13. On September 21, 2017, USACE Finance Center electronically paid Talan Industries, LLC \$108,964.41 for work performed on USACE contract W912QR-17-P0061, for which it was later determined that Talan Industries provided non-conforming parts.

COUNT 1
(Conspiracy to Commit Wire Fraud)

14. The factual allegations set forth in Paragraphs 1 through 13 are re-alleged and fully incorporated by reference herein.

15. From on or about July 5, 2016 and continuing until at least on or about April 16, 2019, in the Southern District of Ohio and elsewhere, the defendant, **TODD A. HANKS**, knowingly and intentionally conspired and agreed with B.S. and others to commit wire fraud, that is, to devise and intend to devise a scheme to defraud the United States Department of Defense and for obtaining money and property from the DOD by means of materially false and fraudulent pretenses, representations and promises, and material omissions, and for the purpose of executing the scheme, using wire communications in interstate commerce, in violation of 18 U.S.C. § 1343.

Manners and Mean of the Conspiracy

16. The manner and means by which the defendant sought to accomplish the objective of the conspiracy include, but are not limited to, the following:

a. On August 8, 2016, **HANKS** registered Talan Industries, LLC with the System for Award Management (SAM) and certified Talan Industries, LLC as a Women Owned Small Business (WOSB) concern eligible under the WOSB Program.

b. On February 23, 2017, **HANKS** updated Talan Industries, LCC's profile in SAM and continued to represent the company as WOSB. **HANKS** attested to the accuracy of the representations and certifications with the understanding that he may be subject to criminal prosecution under Section 1001, Title 18 of the United States Code if he misrepresented Talan Industries, LLC in any of the representations or certifications made to the Government.

c. On April 12, 2017, **HANKS** knowingly misrepresented Talan Industries, LLC as a WOSB and falsely represented that it would comply with the Buy American Act provisions in its electronically submitted bid on a Department of the Army, U.S. Army Corp of Engineers (USACE) solicitation inviting set-aside small businesses to provide lighting upgrades to the Markland Locks and Dam in Kentucky. On April 20, 2017, Talan Industries, LLC was awarded contract W912QR-17-P-0061 for \$108,964.41 to provide lighting upgrades.

d. **HANKS** acquired the lights for contract W912QR-17-P-0061 from B.S.'s company, MWest Green. The light bulbs originated from China, contrary to **HANKS** representations to the Government that Talan Industries, LLC would comply with the Buy American Act and provide a product made in the United States.

e. On August 17, 2017, **HANKS** submitted an invoice for payment of \$108,964.41 for contract W912QR-17-P-0061. USACE issued an electronic payment of the same amount to Talan Industries, LLC's bank account on September 21, 2017.

f. On June 12, 2017, **HANKS** knowingly misrepresented Talan Industries, LLC as a WOSB and falsely represented that it would comply with the Buy American Act provisions in its electronically submitted bid on a Department of the Army, USACE solicitation inviting set-aside small businesses to provide lighting upgrades to the McAlpine Locks and Dam in Kentucky. On

June 16, 2017, Talan Industries, LLC was awarded contract W912QR-17-P-0087 for \$124,703.87 to provide lighting upgrades.

g. **HANKS** again acquired the lights for contract W912QR-17-P-0087 from B.S.'s company, MWest Green. The light bulbs originated from China, contrary to **HANKS** representations to the Government that Talan Industries, LLC would comply with the Buy American Act and provide a product made in the United States.

h. On August 17, 2017, **HANKS** again updated Talan Industries, LCC's profile in SAM and continued to represent the company as WOSB. **HANKS** attested to the accuracy of the representations and certifications with the understanding that he may be subject to criminal prosecution under Section 1001, Title 18 of the United States Code if he misrepresented Talan Industries, LLC in any of the representations or certifications made to the Government.

In violation of 18 U.S.C. § 1349.

COUNT 2
(Making a False Statement)

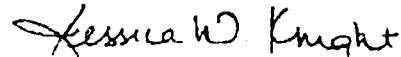
17. The factual allegations set forth in Paragraphs 1 through 13 are re-alleged and fully incorporated by reference herein.

18. On or about February 23, 2017, the defendant, **TODD A. HANKS**, within the Southern District of Ohio and elsewhere, did willfully and knowingly make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the Government of the United States, by representing and electronically certifying in the System for Award Management, subject to the penalties of 18 U.S.C. § 1001, that Talan Industries, LLC was a Women Owned Small Business (WOSB) concern eligible under the WOSB Program. The representation was false because, as **HANKS** then and there knew, Talen

Industries, LLC was not a women owned small business as HANKS ran the business entirely on his own.

In violation of 18 U.S.C. § 1001(a)(2).

**DAVID M. DEVILLERS
UNITED STATES ATTORNEY**

A handwritten signature in black ink, appearing to read "Jessica W. Knight", is written over a horizontal line.

**JESSICA W. KNIGHT, (0086615)
Assistant United States Attorney
J. MICHAEL MAROUS (0015322)
Special Assistant United States Attorney**